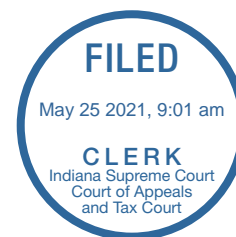


## MEMORANDUM DECISION

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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J.D.,  
*Appellant-Petitioner,*

v.

State of Indiana,  
*Appellee-Respondent.*

May 25, 2021

Court of Appeals Case No.  
20A-JV-2381

Appeal from the St. Joseph Probate  
Court

The Honorable Jason A.  
Cichowicz, Judge

The Honorable Graham C.  
Polando, Magistrate

Trial Court Cause Nos.  
71J01-1901-JD-3  
71J01-1906-JD-210  
71J01-2003-JD-78  
71J01-2005-JD-128

**Najam, Judge.**

## Statement of the Case

- [1] J.D. appeals the juvenile court’s award of wardship over him to the Indiana Department of Correction (“DOC”). J.D. presents a single issue for our review, namely, whether the juvenile court abused its discretion when it placed him with the DOC.
- [2] We affirm.

## Facts and Procedural History

- [3] On January 11, 2019, the State filed a petition in Cause Number 71J01-1901-JD-3 (“JD-3”) alleging that J.D. was a juvenile delinquent because he had committed resisting law enforcement, as a Class A misdemeanor if committed by an adult. J.D. admitted to the allegation, the court adjudicated him to be a delinquent child, and, on March 4, the court placed J.D. on “[s]trict and [i]ndefinite” probation with an order that J.D. complete various tasks. Appellant’s App. Vol. 2 at 94.
- [4] Just over one month later, the State filed a request that the court modify J.D.’s placement. In support of that request, the State alleged that J.D. had failed to complete two requirements of his placement and that he had allegedly committed a new delinquent act. Specifically, the State contended that, on April 2, J.D. had “threatened” staff members of the Kroc Center. *Id.* at 109. Following a hearing on the State’s request, the court continued J.D.’s placement on probation, with a placement on home detention for up to sixty days. Thereafter, as a result of J.D.’s actions, the State filed a second petition in

Cause Number 71J01-1905-JD-156 (“JD-156”) alleging that J.D. was a juvenile delinquent because he had committed intimidation, as a Class A misdemeanor if committed by an adult.

[5] On May 20, the State received a report that J.D. had entered a motor vehicle without permission. On June 4, the State filed a petition in Cause Number 71J01-1906-JD-210 (“JD-210”) alleging that J.D. was a juvenile delinquent because he had committed unauthorized entry of a motor vehicle, as a Class B misdemeanor if committed by an adult. J.D. admitted to that allegation and, in exchange, the State dismissed the charge in JD-156. The court ordered J.D. to remain on home detention, and J.D. was accepted into the day reporting program.

[6] On June 9, the State received a report that J.D. had aided, induced, or caused an armed robbery. Also in June, the State received a report that J.D. had been arrested in Illinois and charged with two counts of aggravated robbery, as Class 1 felonies if committed by an adult. In February 2020, J.D. appeared before the juvenile court, and the court released him to home detention.

[7] On March 12, 2020, the State filed a petition in Cause Number 71J01-2003-JD-78 (“JD-78”) alleging that J.D. was a delinquent because he had aided, induced, or caused an armed robbery, as a Level 3 felony if committed by an adult, based on the allegations contained in the June 9, 2019, report. Shortly thereafter, on March 31, 2020, the State received a report that J.D. had removed his GPS tracking device and left his residence. As a result, the State

filed a notice of violation of his placement on home detention. In addition, the State filed another petition alleging that J.D. was a delinquent because he had committed escape, as a Level 6 felony if committed by an adult, in Cause Number 71J-1-2005-JD-128 (“JD-128”). J.D. admitted to the escape allegation, and the court placed J.D. at the St. Joseph County Juvenile Justice Center. *See* Appellant’s App. Vol. 6 at 107.

[8] In June 2020, J.D. was released to home detention, and, on July 2, J.D. admitted to the robbery allegation in JD-78. *See* Appellant’s App. Vol. 5 at 24. Between June 28 and July 23, the State filed three notices of violation alleging that J.D. had left his residence without permission. In the third report, the State asked the court to detain J.D., and the State filed a modification report. In that report, the State outlined J.D.’s history and notified the court that J.D. had been adjudicated for the two aggravated robberies in Illinois for which he was committed to the Illinois Youth Center for ten months. However, the court again placed J.D. on strict and indefinite probation and ordered him to remain on home detention.

[9] Then, between August 30 and October 5, the State filed seven additional notices of violations. In those notices, the State alleged that J.D. had failed to charge the battery in his GPS device three times, had tested positive for marijuana on one occasion, and had left his residence without permission twice. The State also alleged that members of J.D.’s household had prohibited J.D.’s probation officer from speaking with him at a home visit. In addition, on September 24, J.D. was administratively removed from day reporting. On

October 7, the court denied the State's detention request and continued J.D. on home detention.

[10] On October 9, officers conducted a search of J.D.'s home and found a firearm in his bedroom. As a result, the State filed another notice of violation and requested that the court detain him, which motion the court granted.

Thereafter, the State filed a modification request. In that request, the State asserted that, since his detention, J.D. has received "multiple incident reports" for being disrespectful toward staff. Appellant's App. Vol. 3 at 102.

[11] At a subsequent hearing on the State's modification request, Dayna Carire, J.D.'s probation officer, testified that J.D. had been "disrespectful to staff" and had "fail[ed] to follow staff instructions" while detained. Tr. at 9. She also testified that J.D.'s behavior when he was on day reporting was "horrible." *Id.* at 10. Accordingly, Carire recommended that wardship over J.D. be awarded to the DOC.

[12] Following the hearing, the court found that J.D. "has been given chance after chance at reforming his conduct" but "simply continues to disregard the law." Appellant's App. Vol. 2 at 113. The court also found that J.D.'s "history of violent, delinquent behavior means that any less restrictive placement means both he and the community will be at significant and unacceptable risk." *Id.* at 112-13. As such, the court modified J.D.'s placement and placed him under the wardship of the DOC. This appeal ensued.

## Discussion and Decision

[13] J.D. 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).

[14] On appeal, J.D. contends that the court abused its discretion when it placed him under the wardship of the DOC because “it was reported during a Child Family Team Meeting held on October 2, 2020[,] that a difference was observed in J.D.’s behavior since he was in Day Reporting.” Appellant’s Br. at 8. In addition, J.D. asserts that he “had stated that he was ready to make a change and be committed to better behavior.” *Id.* And he maintains that “none of the technical violations presented” at the hearing were “of the nature that established a threat to the safety of the community.” *Id.* at 8-9.

[15] However, the record is clear that the court gave J.D. numerous opportunities at less-restrictive placements. Indeed, at only twelve years old, J.D. admitted to having resisted arrest, and the court adjudicated him a delinquent child and placed him on probation. But J.D. failed to comply with the terms of his probation, and he committed the new offense of unauthorized entry of a motor vehicle. J.D.'s behavior then escalated, and he admitted to one count of aiding, including, or causing an armed robbery in Indiana, and he was adjudicated a delinquent in Illinois for having committed two counts of aggravated robbery. But the court continued to offer J.D. a less restrictive placement and continued his placement on home detention.

[16] J.D. then removed his GPS tracking device and escaped. As a result, the court placed him at a juvenile justice center for a short term and then released him to home detention. The State then filed three notices of violation alleging that J.D. had left his residence, but the court continued to grant J.D. leniency and placed him on probation. The State then filed seven additional notices of violation, but the court continued his placement on home detention. It was not until J.D.'s probation officer found a firearm in J.D.'s bedroom that the court ordered J.D.'s detention.<sup>1</sup> And, following his detention, J.D. received

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<sup>1</sup> J.D. contends that, "while there was a pending petition against J.D. for allegedly possessing a firearm, this was at the time of the modification hearing an allegation." Appellant's Br. at 8. However, at the hearing on the State's modification report, both J.D.'s counsel and his mother stated that J.D. had possessed the firearm. See Tr. at 15, 17.

“multiple incident reports” that he had been disrespectful toward staff and failed to follow instruction. Appellant’s App. Vol. 3 at 102.

[17] Based on that evidence, we agree with the trial court that “[r]easonable efforts were made to prevent or eliminate the need for removal[.]” Appellant’s App. Vol. 2 at 112. But despite those efforts by the court, J.D. has continued to break the law and has accumulated a lengthy criminal record at a young age. We therefore hold that the juvenile court did not abuse its discretion when it ordered that J.D. be committed to the DOC. We affirm the trial court.

[18] Affirmed.

Pyle, J., and Tavitas, J., concur.