

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

A.L.,
Appellant-Respondent,

v.

State of Indiana,
Appellee-Petitioner.

April 27, 2022

Court of Appeals Case No.
21A-JV-2158

Appeal from the St. Joseph Probate
Court

The Honorable Graham C.
Polando, Magistrate

Trial Court Cause No.
71J01-2103-JD-74

Najam, Judge.

Statement of the Case

- [1] A.L. appeals the juvenile court’s dispositional order awarding wardship of him to the Department of Correction (“DOC”). He presents a single issue for our review, namely, whether the juvenile court abused its discretion when it placed him with the DOC. We affirm.

Facts and Procedural History

- [2] On January 16, 2021, then-fourteen-year-old A.L. was stopped by police in Marshall County while he was driving a friend’s car. On March 13, the State filed a petition alleging that A.L. was a delinquent child because he had committed operating a motor vehicle without ever receiving a license, as a Class C misdemeanor if committed by an adult. A.L. failed to appear for the initial hearing on April 19, and the juvenile court issued a body attachment order. That order was “shown as served” in an order dated July 26, and the court placed custody of A.L. with the St. Joseph County Juvenile Probation Department (“Probation Department”) pending the dispositional hearing. Appellant’s App. Vol. 2 at 9. Following that hearing on August 24, the juvenile court ordered A.L. committed to the DOC. This appeal ensued.

Discussion and Decision

- [3] A.L. contends that the juvenile court abused its discretion when it ordered him to be committed to the DOC rather than placed in a less restrictive setting. This court has explained the way in which we review a juvenile court’s disposition as follows:

“The choice of a specific disposition for a delinquent child is within the discretion of the trial court, subject to the statutory considerations of the welfare of the child, the safety of the community, and a statutory policy of favoring the least harsh disposition. We may overturn the trial court’s disposition order only if we find that it has abused its discretion. An abuse of discretion occurs if the trial court’s decision 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.”

J.J. v. State, 925 N.E.2d 796, 801 (Ind. Ct. App. 2010) (quoting *A.M.R. v. State*, 741 N.E.2d 727, 729 (Ind. Ct. App. 2000)), *trans. denied*.

[4] Indiana Code Section 31-37-18-6 (2021) provides as follows:

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.

[5] Here, in support of his contention on appeal, A.L. asserts that the juvenile court "should have instituted a less harsh disposition until [he] demonstrated he would not respond positively to probation." Appellant's Br. at 7. He states that he "previously completed a term of probation which indicates amenability." *Id.* at 8. And he maintains that

[c]ommitment to the Department of Correction is not the least restrictive setting, it is not close to the parents' home, it does not least interfere with family autonomy, is not least disruptive of family life, imposes the most restraint on the freedom of the child, and does not provide a reasonable opportunity for participation by the child's parent.

Id.

[6] In support, A.L. cites this Court's opinion in *D.P. v. State*, 783 N.E.2d 767 (Ind. Ct. App. 2003), which he describes as "similar" to the case at bar. *Id.* at 7. In *D.P.*, we reversed the juvenile court's order that D.P. be placed in the DOC because he "did not show an unresponsiveness to 'less-restrictive alternatives.'" Quite the contrary, D.P.'s only other contact with the juvenile justice system was successful. He completed his probation and stayed out of trouble for five years." *D.P.*, 783 N.E.2d at 771-72.

[7] We reject A.L.'s attempt to analogize *D.P.* to the facts of this case. Here, while A.L. did successfully complete probation in 2020 following his only prior

adjudication as a delinquent child, he has not managed to “stay out of trouble” since then. As the Probation Department found in its pre-dispositional report,

[A.L.]’s behavior in detention [for three months, pending the dispositional hearing,] has been exceptionally obstinate and defiant. For ten days, he remained on an administrative hold because he could not get along with the other peers on the pod and because he did not want to complete the administrative hold packet that juveniles must complete before returning to the pod. [A.L.] accrued several incident reports just before his administrative hold was implemented, and a care plan was held to work with [A.L.] to adopt a strategy for being released from the administrative hold. Only several days later did he decide to complete the packet. With respect to his delinquency history, [A.L.] was adjudicated for Burglary, a Level 4 felony when he was only 13 years old. He associated then with juveniles known to the Probation Department, and that along with his self-proclaimed affiliation with the Southeast Side gang further contributed to the department believing serious intervention needed to take place. He received probation services and was successfully discharged; *however, the probation services in the community did not prevent him from further embedding himself into the gang life.* In detention, he has used gang signs and placed himself in danger, partly the reason for the administrative hold. Moreover, probation would be remiss if it did not note that [A.L.] was on the run for more than three months and required a body attachment due to his failure to appear at court for the current offense. The Probation Department can only speculate about his behavior, likely gang-related, while he was on the run. Furthermore, [A.L.] has no qualms about his school behavior. He has engaged in physical fights, disrespected staff and peers, and he has failed on several occasions to complete any work. In sum, [A.L.] has no amenability to treatment in a residential setting, *community services have . . . already been implemented, yet [A.L.] continues to disregard the basic rights of others and continues to believe gang activity is the appropriate path for his life.*

Appellant's App. Vol. 2 at 15 (emphases added).

[8] And, in recommending that A.L. be placed at the DOC, the Probation Department concluded as follows:

Probation in the community is not appropriate. He has already received probation services in the community, and there is no guarantee that [A.L.] will not abscond from probation.

Relative care is inappropriate for similar reasons.

Out-of-home placement in a residential setting is incongruous with [A.L.]'s mentality. He has indicated that he will most certainly not participate in a residential program. He has no amenability for residential treatment.

Commitment to a correctional facility is appropriate at this time. The programming and services available will address [A.L.]'s defiance and obstinance and place him in an environment in which he will be distanced from his fellow gang members. He will receive services that will challenge his defiant thinking. He will not be able to go on the run and place himself or others in danger. Moreover, once [A.L.] returns to the community, he will be placed on the Community Transition Program where probation can monitor any progress he has made while in the Department of Correction. The safety of the community and the safety of the juvenile would be at risk were he to remain in the community. Commitment therefore ameliorates that risk and can benefit [A.L.] in the long run should he choose to show amenability after he returns to the community.

Id. at 16.

[9] A.L.'s contentions on appeal amount to a request that we reweigh the evidence, which we cannot do. The juvenile court rejected A.L.'s request for an "opportunity to show the Court that he can behave appropriately" because the court found that he "had that opportunity while detained" and "his behavior has been horrible." Tr. at 13. The court noted that, "even under the most restrictive setting[in detention], he simply cannot comply with the law[.]" *Id.* In light of the evidence, we hold that the juvenile court did not abuse its discretion when it ordered that A.L. be committed to the DOC.

[10] Affirmed.

Bradford, C.J., and Bailey, J., concur.