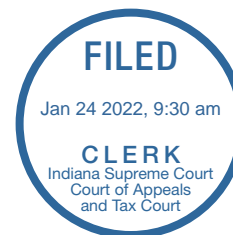


MEMORANDUM DECISION

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

D.E.,
Appellant-Respondent,

v.

State of Indiana,
Appellee-Petitioner.

January 24, 2022

Court of Appeals Case No.
21A-JV-1747

Appeal from the St. Joseph Probate
Court

The Honorable Graham C.
Polando, Magistrate

Trial Court Cause No.
71J01-2106-JD-159
71J01-2105-JD-153

Mathias, Judge.

- [1] The St. Joseph Probate Court adjudicated D.E. a delinquent child and placed him in the Department of Correction. D.E. appeals and raises a single issue for

our review, namely, whether the juvenile court abused its discretion when it placed D.E. in the Department of Correction and not in a less restrictive setting. Because D.E.'s previous, less-restrictive placements have been unsuccessful, we cannot say the juvenile court abused its discretion when it placed D.E. in the Department of Correction, and we affirm the juvenile court's judgment.

Facts and Procedural History

- [2] On May 23, 2021, D.E., who was sixteen years old, stole a 2007 Mercury Milan in South Bend. The next day, when the owner of the vehicle observed D.E. driving her vehicle and confronted him, he pointed a handgun at her. And, on May 25, when officers approached D.E. in the stolen vehicle, he fled from them and discarded a handgun in the process. Officers apprehended D.E. and recovered the handgun.
- [3] After the State filed two delinquency petitions against D.E., he admitted that he had committed auto theft, as a Level 6 felony when committed by an adult, and dangerous possession of a firearm, as a Class A misdemeanor when committed by an adult. The trial court accepted D.E.'s admissions and adjudicated him a delinquent.
- [4] At D.E.'s ensuing dispositional hearing, the State submitted without objection a pre-disposition report. Relying on that report, the State requested that D.E. be placed in the Department of Correction for the following reasons:

[D.E.] has been detained since May 25. He has received . . . a total of 11 incident reports for behavior Those behaviors

reported for disorderly conduct, disrespectful to staff, failure to follow staff instruction, staff had to use soft open hands, also hard open hands, on 6/3, possession of contraband, trafficking, threats to staff, as noted since the pre-disposition court.

Those incident reports he received [following the completion of the pre-disposition report] . . . were for attempted battery on peer, battery on peer, staff again had to use soft open hands, gang promotion, disrespectful to staff, failure to follow staff instructions, threat to staff, disorderly conduct.

[D.E.] is 16 years of age. This case represents his 11th referral to this Probation Department . . . with case number 12 pending. Prior to being detained, it should also be noted that [D.E.] was discharged from probation in case[s] 5, 6, and 8. That same day, approximately three hours later, we were back in court for these two current cases. [D.E.] has received several services while being placed on probation. He received home detention, community service, counseling, family engagement, home-based casework services, truancy services, and he was also on day reporting

Tr. pp. 15–16. In response, D.E. asked the court to “consider residential placement.” *Id.* At 17.

[5] The trial court ordered D.E. to be placed in the Department of Correction. In particular, the court found, “given [D.E.’s] history, given his behavior in detention, I have to agree with [the State’s] conclusion regarding his amenability.” *Id.* at 21. This appeal ensued.

Discussion and Decision

[6] D.E. appeals the juvenile court’s placement order. The juvenile court system is founded on the notion of *parens patriae*, which allows the court to step into the shoes of the parents. *In re K.G.*, 808 N.E.2d 631, 635 (Ind. 2004). The *parens patriae* doctrine gives a juvenile court the power to further the best interests of the child, which implies a broad discretion unknown in the adult criminal court system. *Id.* at 636. The juvenile court therefore has wide latitude and great flexibility in its dealings with juveniles. *In re M.T.*, 928 N.E.2d 266, 268 (Ind. Ct. App. 2010), *trans. denied*. 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 be reversed only if there has been an abuse of that discretion. *M.B. v. State*, 815 N.E.2d 210, 215 (Ind. Ct. App. 2004). We consider only the evidence most favorable to the judgment and will overturn a dispositional order only if we determine the court “abused its discretion because its conclusion and judgment are 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.” *Id.*

[7] D.E. argues that the Department of Correction is not the least restrictive placement and, thus, his placement violates the requirements of [Indiana Code section 31-37-18-6](#) (2021) and is an abuse of discretion. In particular, D.E. asserts that he is sixteen years old; that some of the prior referrals in the pre-disposition report related to a paternity action and not to delinquency petitions; that his “prior delinquent behavior, while not insignificant, was not of such a

serious level that services outside of the Department of Correction could not remedy”; that he had successfully completed prior less-restrictive placements; and that he is considered only a moderate risk to reoffend. Appellant’s Br. pp 10–11. D.E. further asserts that the juvenile court’s judgment was “punitive.” *Id.* at 12.

[8] But D.E.’s arguments disregard our standard of review and ask our Court to reweigh the evidence that was before the juvenile court, which we will not do. Viewing the record in the light most favorable to the juvenile court’s judgment, as our standard of review requires, we conclude that the record readily supports the juvenile court’s placement of D.E. in the Department of Correction. D.E. has numerous prior juvenile adjudications and less-restrictive placements, yet he continues to reoffend. D.E. had been discharged from probation three hours prior to his arrest for the instant offenses. And, after his arrest, he had eleven incident reports for his behavior during confinement, including reports of battery, possession of contraband, gang-related behavior, and threatening staff. The juvenile court’s conclusion that D.E. is not amenable to a placement that is less restrictive than the Department of Correction is supported by the record.

[9] Affirmed.

Bailey, J., and Altice, J., concur.