

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

X.N.,
Appellant-Respondent,

v.

State of Indiana,
Appellee-Petitioner.

August 8, 2022

Court of Appeals Case No.
21A-JV-2829

Appeal from the
Lake Superior Court, Juvenile
Division

The Honorable
Jeffrey Miller, Magistrate

Trial Court Cause Nos.
45D06-2009-JD-371
45D06-2106-JD-218
45D06-2106-JD-219
45D06-2108-JD-346

Molter, Judge.

[1] X.N. admitted to committing delinquent acts in four causes. Following disposition of the first cause, the juvenile court removed X.N. from his home and placed him in a residential treatment facility. After X.N. participated in an armed takeover of the facility, destroyed the facility's property on another occasion, and attacked a detention officer at the Lake County Juvenile Center, the juvenile court awarded wardship of X.N. to the Indiana Department of Correction. X.N. now appeals, arguing the juvenile court abused its discretion in modifying his placement because it was not the least restrictive alternative. Finding no error, we affirm.

Facts and Procedural History

[2] In August 2020, when X.N. was fourteen years old and living with his mother, he ran away from home. He returned a couple of weeks later but ran away again soon after. When he again returned home, his mother requested police assistance in transporting him to the Gary Crisis Center. She described X.N. as being "uncontrollable" and reported he was "constantly running away." Appellant's App. Vol. 2 at 3.

[3] After law enforcement responded to X.N.'s residence, they noticed he was irritable and instructed him to sit on a couch. Although X.N. initially complied, he later tried to lunge away from the officers and flee the residence. The officers instructed X.N. to stop and sit back on the couch, but he responded: "[F]uck you, I ain't gotta do shit." *Id.* An officer then tried to reach for X.N. to get him under control, but X.N. pushed the officer in the chest and swung his fist at him. The officer next attempted to restrain X.N. with a

“bear hug,” but X.N. flailed about erratically and eventually pushed his feet against a wall to break free from the officer’s grasp. *Id.* X.N. and the officer fell to the ground, and another officer managed to gain control of X.N. by restraining his legs. Before X.N. was detained, he told an officer that he would have the “streets” after him. *Id.* When the officer told X.N.’s mother that her son had threatened him, X.N. stated: “[Y]ou got that right. You’re dead, white ass cop.” *Id.* X.N. was ultimately transported to the Lake County Juvenile Center.

[4] Under cause number 45D06-2009-JD-371 (“JD-371”), the State alleged that X.N. was a delinquent child for committing two counts of intimidation and attempted battery against a public safety official, all Level 6 felonies if committed by an adult, and resisting law enforcement, a Class A misdemeanor if committed by an adult. X.N. and the State later entered a plea agreement, and X.N. admitted to the second intimidation charge (which was amended to a Class A misdemeanor if committed by an adult) and resisting law enforcement. The juvenile court then issued a dispositional decree and placed X.N. on Intensive Probation, Level 2.

[5] A few months later, after being released to his mother’s custody from the Lake County Juvenile Center, X.N. allegedly violated the terms of his probation and was arrested. Particularly, X.N.’s GPS monitor indicated multiple “shielding events,” and his mother called the police numerous times to report his out-of-control behavior. *Id.* at 83–84. The State subsequently moved to modify the terms of X.N.’s probation and alleged that X.N. committed eight zone

violations by leaving his home without permission. The State also alleged that X.N. tested positive for illicit substances five times. X.N. ultimately admitted to the allegations in the State's motion, and the juvenile court consequently ordered him to a probation period of six months of residential placement at a treatment facility.

[6] Soon after X.N.'s arrival at the treatment facility, law enforcement was dispatched to investigate a report of juveniles threatening staff with homemade wooden shanks. Specifically, the juveniles, including X.N., fashioned the shanks from wood picture frames that hung on the facility's walls. They also "took over" the facility's southwest corner, brandished their weapons, and made various threats toward the staff—including to beat their "ass[es]," stab them, or "mop the floor" with them. Appellant's App. Vol. 3 at 50. They eventually stopped when police officers unholstered their tasers and ordered the group to the ground. Subsequently, under cause number 45D06-2106-JD-218 ("JD-218"), the State filed a second delinquency petition alleging that X.N. committed two counts of intimidation, Level 5 felonies if committed by an adult, and disorderly conduct, a Class B misdemeanor if committed by an adult.

[7] Roughly one month later, law enforcement was again dispatched to the treatment facility for a second incident involving the juveniles. X.N. and other juveniles threw items at the ceiling after becoming upset and caused significant damage. One officer who responded to the scene described how several ceiling tiles and light fixtures were damaged, as well as how wires and ductwork hung from the ceiling. The State filed a third delinquency petition—under cause

number 45D06-2106-JD-219 (“JD-219”)—alleging that X.N. committed criminal mischief, a Class B misdemeanor if committed by an adult. In May 2021, X.N. admitted to the allegations in the delinquency petitions for JD-218 and JD-219 and was adjudicated a delinquent.

[8] Throughout X.N.’s time at the treatment facility, he received numerous incident reports relating to his aggressive and destructive behavior. Eventually, the treatment facility requested that he be removed from its program, and X.N. was detained at the Lake County Juvenile Center until alternative residential placement could be found for him. While at the center, X.N. attacked a detention officer and struck him several times. That was in response to the officer warning X.N. about his behavior after X.N. told his mother on the phone that he was going to “beat another resident’s ass.” Appellant’s App. Vol. 3 at 165. The officer was taken to the hospital after the incident, and X.N. bragged about how he made the officer bleed. Under cause number 45D06-2108-JD-346 (“JD-346”), the State filed a fourth delinquency petition alleging that X.N. committed battery resulting in bodily injury to a public safety officer, a Level 5 felony if committed by an adult, and battery against a public safety official, a Level 6 felony if committed by an adult. In September 2021, X.N. admitted to battery resulting in bodily injury to a public safety officer, which was amended to a Class A misdemeanor if committed by an adult.

[9] A couple of months later, following a status hearing on all four causes, the juvenile court found that the probation department made reasonable efforts to prevent or eliminate the need for X.N.’s removal. Also, the court found that it

was in X.N.'s best interests to be removed from the home environment and that remaining in the home would have been contrary to his welfare because he was engaging in dangerous behaviors that jeopardized his physical and mental health and educational services. Accordingly, the juvenile court granted wardship of X.N. to the DOC. X.N. now appeals.

Discussion and Decision

[10] The disposition of a juvenile adjudicated a delinquent is a matter committed to the juvenile court's discretion, subject to the statutory considerations of the child's welfare, community safety, and the policy favoring the least harsh disposition. *R.H. v. State*, 937 N.E.2d 386, 388 (Ind. Ct. App. 2010). Those statutory considerations are found in Indiana Code section 31-34-19-6, which 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

(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.

[11] A juvenile court has wide latitude and great flexibility in dealing with juveniles; however, its goal is to rehabilitate rather than punish. *C.T.S. v. State*, 781 N.E.2d 1193, 1203 (Ind. Ct. App. 2003), *trans. denied*. We review the juvenile court's disposition and modification orders for an abuse of discretion, which occurs if its decision is clearly against the logic and effect of the facts and circumstances before it or the reasonable inferences that may be drawn therefrom. *R.H.*, 937 N.E.2d at 388.

[12] X.N. claims the juvenile court abused its discretion by committing him to the DOC because a less restrictive alternative, like placement with a residential facility, was available.¹ This argument fails for two reasons.

[13] First, the record does not support his claim that a less restrictive alternative was available. The court asked X.N.'s mother about whether X.N. could be placed with her, but she stated that she would "have to see." Tr. at 11. She had previously described X.N. as being "uncontrollable" and reported he was

¹ We note that X.N. fails to identify a less restrictive alternative than his commitment to the DOC.

“constantly running away.” Appellant’s App. Vol. 2 at 3. X.N.’s probation officer contacted numerous residential placement facilities and tried to find him placement elsewhere, but each program declined to offer X.N. placement due to his aggressive behavior. There was one program that initially offered X.N. placement, but the program rescinded its offer after X.N. attacked the detention officer. The juvenile court even tried to find an alternative placement for X.N. itself by contacting the Lake County Department of Child Services, but the court had no success.

[14] Second, even if less restrictive options were available to the juvenile court, there are still times when commitment to a suitable institution is in the best interest of the juvenile and society. *D.S. v. State*, 829 N.E.2d 1081, 1085 (Ind. Ct. App. 2005). Indiana Code section 31-34-19-6 requires the juvenile court to consider the least restrictive placement only *if* that placement comports with the safety needs of the community and the child’s best interests. *See J.B. v. State*, 849 N.E.2d 714, 718–19 (Ind. Ct. App. 2006) (concluding the juvenile’s placement in the DOC was warranted because the less restrictive placement suggested by him would have fallen short of meeting the community’s safety needs and his best interests given testimony he was a danger to himself and others until he received substance abuse treatment and learned to modify his criminal behavior).

[15] Here, the record is replete with instances of X.N.’s continued and escalating misconduct while under supervision in less restrictive placements. While initially on home detention, X.N. allegedly committed numerous zone

violations, left his home without permission, and violated the terms of his probation. He also tested positive for illicit substances, and his mother called the police several times to report his out-of-control behavior.

[16] Shortly after beginning his residential placement at the treatment facility, X.N. was transferred from the facility's "staff-secure unit" to its "locked unit" because he displayed "unsafe and aggressive behaviors." Appellant's App. Vol. 2 at 111. Within a month of his arrival at the facility, X.N. and other juveniles threatened staff with homemade wooden shanks and took over the southwest corner of the facility. X.N. again caused trouble at the facility by throwing objects at the ceiling and damaging property. In short, X.N. received numerous incident reports concerning his aggressive behavior throughout his time at the facility, and he was eventually removed from its program and detained temporarily at the Lake County Juvenile Center. While at the center, he attacked a detention officer.

[17] Overall, X.N. has an extensive history of juvenile delinquency after having been adjudicated a delinquent four times and has been given multiple opportunities in less restrictive placements. Further, contrary to his claims, X.N. hardly made any meaningful progress in his treatment while at the treatment facility. While he initially developed a "positive rapport" with his therapist, he still engaged in aggressive and destructive behaviors, and he stopped participating in

therapy after his therapist left the facility.² *Id.* at 147; Tr. at 10. His probation officer even testified that X.N.’s “therapeutic progress never effectuated any type of change in his behavior.” Tr. at 10.

[18] Accordingly, given the facts and circumstances of this case, the juvenile court did not abuse its discretion by modifying its dispositional decree and awarding wardship of X.N. to the DOC. *See K.A. v. State*, 775 N.E.2d 382, 387 (Ind. Ct. App. 2002) (concluding there was no abuse of discretion by the juvenile court when it modified the juvenile’s disposition to commitment to the DOC after the juvenile had failed to reform her behavior at other placements), *trans. denied*; *see also J.J. v. State*, 925 N.E.2d 796, 802 (Ind. Ct. App. 2010) (affirming commitment of a juvenile to the DOC where the juvenile had been offered numerous means for rehabilitation but “continued to reoffend and disrespect the rule of law and his fellow citizens”), *trans. denied*.

[19] Affirmed.

Mathias, J., and Brown, J., concur.

² While X.N. relies on *A.C. v. State*, 144 N.E.3d 810 (Ind. Ct. App. 2020), that case supports the State’s position insofar as it affirmed a dispositional order granting wardship to the DOC, and the case addressed a different issue. The question there was whether the juvenile court had statutory authority to order commitment of A.C. to the DOC. There is no dispute about that here. Instead, X.N. challenges whether his commitment to the DOC was the least restrictive alternative.