

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

M.M.,
Appellant-Respondent,

v.

State of Indiana,
Appellee-Petitioner

August 9, 2023

Court of Appeals Case No.
23A-JV-456

Appeal from the Wayne Superior
Court

The Honorable Darrin M.
Dolehanty, Judge

Trial Court Cause No.
89D03-2203-JD-10

Memorandum Decision by Judge Mathias
Judges Vaidik and Pyle concur.

Mathias, Judge.

[1] M.M. appeals the juvenile court's order making him a ward of the Indiana Department of Correction (DOC). M.M. raises a single issue for our review, namely, whether the court abused its discretion by placing him with the DOC when there were less restrictive alternative placements available. We conclude that the juvenile court did not abuse its discretion based on M.M.'s repeated violations of the conditions of his previous, less restrictive placements. We therefore affirm the juvenile court's order.

Fact and Procedural History

[2] On March 26, 2022, M.M.'s mother contacted the police when she could not control her thirteen-year-old son, M.M., who was hitting himself. When officers arrived at the scene, M.M. ran outside and was uncooperative, leading one officer to carry M.M. back inside and handcuff him due to his continued attempts to escape.

[3] On April 4, the State filed a delinquency petition against M.M. The State alleged that M.M. had committed acts that would be considered a Level 6 felony and a Class A misdemeanor if committed by an adult. M.M. admitted to those allegations, and the juvenile court adjudicated him to be a delinquent. At the time, M.M. was on probation in another cause, and the court placed M.M. in a residential facility.

[4] While in the residential facility, M.M. accumulated five major incident reports and seven other incident reports. M.M.'s incident reports included assault, sexual coercion, truancy, destruction of property, and drug possession. Due to

the severity of his incident reports, the juvenile court found that M.M.'s continued placement at that facility was not in his best interests, and the court ordered him to be transferred to a more secure facility, the Youth Opportunity Center (YOC).

[5] While at YOC, M.M. accumulated twenty-one incident reports between July 31 and August 28. Those incident reports included “behaviors of habitual disobedience, physical aggression towards staff and other residents, pulling of fire alarm, running out of the cottage, taking staff badges, climbing trees, self-harm used as manipulation to be removed from seclusion, sexually harassing staff, and property damage.” Appellant’s App. Vol. 2, p. 132.

[6] Thereafter, the State filed a petition to modify M.M.'s placement. M.M. admitted to violating the conditions of his probation and to failing to complete his treatment at YOC. As a result, the court maintained his placement at YOC. Following another modification hearing in October, the court released M.M. into the care of his mother.

[7] However, M.M.'s inability to comply with the conditions of his release continued. In particular, M.M. frequently missed school, tested positive for drugs, and did not take his prescribed medication. Still, following another review hearing in December, the juvenile court kept M.M.'s placement with his mother.

[8] On January 19, 2023, the State recommended that M.M.'s placement be modified to the DOC. The State’s request alleged that M.M. did not

consistently participate in counseling sessions, frequently missed school, engaged in marijuana use, yielded positive results on drug tests, and failed to attend his probation meetings. The State further alleged that M.M. had violated the conditions of his probation by missing school twenty-one times between October 2022 and January 2023 and testing positive for marijuana and methamphetamine on four separate drug screens. After a hearing, the juvenile court modified M.M.'s placement and made him a ward of the DOC. This appeal ensued.

Decision and Discussion

[9] M.M. argues that the juvenile court abused its discretion by making him a ward of the DOC. Specifically, M.M. argues that his behaviors were improved while he was complying with his medication program, and that the trial court's placement decision failed to take that into account. According to M.M., "if the trial court had recognized M[M.]'s success in the medication management program, such an intermediate program would have been ordered again in lieu of DOC." Appellant's Br. at 19.

[10] We recognize the purpose of the juvenile progress is vastly different from the criminal justice system. *Jordan v. State*, 512 N.E.2d 407, 408 (Ind.1987). "The nature of the juvenile process is rehabilitation and aid to the juvenile to direct his behavior so that he will not later become a criminal." *Id.* However, "[t]he disposition of a juvenile adjudicated a delinquent is a matter committed to the sound discretion of the juvenile court, subject to the statutory considerations of the welfare of the child, the safety of the community, and the policy favoring

the least harsh disposition.” *R.H. v. State*, 937 N.E.2d 386, 388 (Ind. Ct. App. 2010). We may overturn the juvenile court’s decision only if we find that it abused its discretion by acting against the “logic and effect of the facts and circumstances before it or the reasonable inferences that may be drawn therefrom.” *Id.*

[11] [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

(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.

Further, we have recognized that a more restrictive placement in a public institution is sometimes necessary because it is in the best interest of the juvenile and society. *D.S. v. State*, 829 N.E.2d 1081, 1085 (Ind. Ct. App. 2005).

Placement with the DOC is not a penalty but a secure environment that can better serve the overall purpose of rehabilitating a juvenile. *M.C. v. State*, 134 N.E.3d 453, 461 (Ind. Ct. App. 2019).

[12] Here, the juvenile court's decision to place M.M. with the DOC was the placement most consistent with the safety of the community and M.M. The juvenile court's decision is supported by the recurring pattern of M.M.'s nonconforming behavior and the ineffectiveness of his prior placements. When the officers arrested M.M. on March 26, 2022, he was already on probation in another cause, and he had been arrested eleven times previously. After the juvenile court placed M.M. in a residential facility, he incurred twelve incident reports, including assault, sexual coercion, truancy, destruction of property, and drug possession.

[13] M.M.'s problematic behaviors continued following his transfer from the residential facility to YOC. There, he persisted in displaying disobedience, exhibiting physical aggression towards both staff and fellow residents, and sexually harassing the staff. In total, M.M. incurred twenty-one incident reports during his time at YOC.

[14] Still, despite the State's recommendation to place M.M. in the DOC following those incidents, the juvenile court extended M.M. yet another opportunity at a

low-restriction placement when the court permitted him to reside with his mother. Yet, while staying with his mother, M.M. regularly missed school, abstained from participating in counseling sessions, tested positive for marijuana and methamphetamine, and neglected to attend his probation meetings. Therefore, the juvenile court’s decision to place M.M. with the DOC was within the logic and effect of the facts and circumstances before the court.

[15] Nonetheless, M.M. directs our attention to *D.P. v. State*, in which this Court determined that the juvenile court abused its discretion when it ordered a juvenile to be placed with the DOC. *D.P. v. State*, 783 N.E.2d 767, 770 (Ind. Ct. App. 2003). In *D.P.*, the juvenile had “a full-scale I.Q. of 65,” had “suffered two seizures, . . . [was] medicated with Ritalin for ADHD,” and had “successfully completed probation for . . . earlier conduct.” *Id.* We thus held that the juvenile court’s order that the juvenile be placed with the DOC was contrary to the logic and effect of those facts and circumstances. *Id.*

[16] But *D.P.* is inapposite here. Although M.M. received diagnoses of Oppositional Defiant Disorder and depression during his time at the YOC, there is no evidence that his I.Q. was abnormal, nor does his record reflect any successful completion of a term of probation. *Id.* at 152. On the contrary, M.M. incurred a total of thirty-two incident reports across his two facility placements and also repeatedly failed to meet the conditions of his placement with his mother. Given those circumstances, M.M.’s argument that the juvenile court abused its discretion by placing him with the DOC must fail. Consequently, we affirm the juvenile court’s judgment.

[17] Affirmed.

Vaidik, J., and Pyle, J., concur.