

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

J.T.,

Appellant-Respondent,

v.

State of Indiana,

Appellee-Petitioner,

April 29, 2022

Court of Appeals Case No.
21A-JV-1670

Appeal from the St. Joseph Probate
Court

The Honorable Graham C.
Polando, Magistrate

Trial Court Cause Nos.
No. 71J01-1806-JD-158
No. 71J01-1901-JD-5
No. 71J01-2004-JD-125
No. 71J01-2008-JD-234
No. 71J01-2009-JD-283

Robb, Judge.

Case Summary and Issue

- [1] J.T. admitted to committing or was found to have committed delinquent acts in five causes. Following the most recent cause, the juvenile court removed J.T. from her home and placed her in Bashor Children’s Home (“Bashor”), a residential treatment facility. Subsequently, the State filed a petition to modify the dispositional decree. The juvenile court then awarded wardship of J.T. to the Indiana Department of Correction (“DOC”). J.T. now appeals, raising one issue for our review which we restate as whether the juvenile court abused its discretion in modifying J.T.’s placement. Concluding the juvenile court did not abuse its discretion, we affirm.

Facts and Procedural History

- [2] On June 5, 2018, the State filed a petition alleging J.T. was a delinquent child for committing unauthorized entry of a motorized vehicle and false informing, Class B misdemeanors if committed by an adult, under cause number 71J01-1806-JD-158 (“JD-158”). J.T. admitted to the allegations and was adjudicated a delinquent. The juvenile court’s dispositional order in JD-158 committed J.T. to the juvenile justice center for ten days, stayed upon compliance with the dispositional order; placed J.T. on indefinite probation; and ordered her to serve no more than thirty days of home detention. *See* Amended Appellant’s Appendix, Volume 2 at 25. However, less than a month later, the State filed a modification report because J.T. had admitted to using marijuana. The juvenile

court ordered J.T. to serve five days in the juvenile justice center and attend Keys Academy. *See id.* at 34.

[3] On January 10, 2019, the State filed a second delinquency petition alleging J.T. committed intimidation, a Level 6 felony if committed by an adult; disorderly conduct, a Class B misdemeanor if committed by an adult; and resisting law enforcement, a Class A misdemeanor if committed by an adult, under cause number 71J01-1901-JD-5 (“JD-5”). J.T. admitted to the allegations in JD-5 and was adjudicated a delinquent. Originally, the juvenile court continued J.T. on probation. *See id.* at 60, 68. However, the State subsequently filed a modification report alleging J.T. was failing to comply with probation and the juvenile court placed J.T. on home detention. *See id.* at 71.

[4] On April 27, 2020, the State filed a third delinquency petition alleging J.T. aided, induced, or caused armed robbery, a Level 3 felony if committed by an adult, under cause number 71J01- 2004-JD-125 (“JD-125”). J.T. was adjudicated a delinquent. On September 14, 2020, the State filed a fourth delinquency petition alleging J.T. committed escape, a Level 6 felony if committed by an adult, under cause number 71J01-2008-JD-234 (“JD-234”). Two days later, the State filed a fifth delinquency petition alleging J.T. committed resisting law enforcement, a Class A misdemeanor if committed by

an adult, under cause number 71J01-2009-JD-283 (“JD-283”).¹ J.T. admitted to the allegations in JD-234 and JD-283 and was adjudicated a delinquent.

[5] The juvenile court issued one dispositional order for JD-125, JD-234, and JD-283.² J.T. was removed from her home and placed in Bashor. Six months later, the State filed a modification report in all five causes alleging, in part, that J.T. had only made minimal progress in her treatment and in addition to twenty-three incident reports, J.T. refused twelve drug screens, continually left the facility, and was observed under the influence. *See id.* 150-51. Following a hearing, the juvenile court found:

Reasonable efforts were made to prevent or eliminate the need for removal, including: Formal Probation Supervision, Therapy, Substance Use Assessment and treatment, Educational Services, Home Detention Trust House Arrest, Home Detention GPS Monitoring, Case Management, and Day Reporting. While obviously a post-removal service, the Court notes that the Respondent has also been placed in a residential treatment facility, Bashor Children’s Home.

Appealed Order at 2. The juvenile court concluded:

The Respondent’s extensive and serious delinquent history indicates that the home is not, and has not been for some time, a safe place for her or the community. The Court therefore

¹ J.T. was also alleged to be a delinquent in cause number 71J01-2004-JD-123; however, it was dismissed when she admitted to the charges in JD-234 and JD-283. *See Am. Appellant’s App.*, Vol. 2 at 118.

² That same day the juvenile court also issued a modification order in JD-5 and JD-158 ordering the same placement. *See Am. Appellant’s App.*, Vol. 2 at 144.

removed her from the home and placed her in a residential facility, Bashor Children’s Home. As stated more fully in open court this date, while at Bashor, she has not only failed to meaningfully progress, but has actively undermined her own treatment and safety, and that of the other facility residents.

Id. at 3.

[6] Accordingly, the juvenile court granted wardship of J.T. to the DOC. J.T. now appeals.

Discussion and Decision

I. Standard of Review

[7] The juvenile court is accorded “wide latitude and great flexibility in dealing with juveniles[.]” *C.T.S. v. State*, 781 N.E.2d 1193, 1203 (Ind. Ct. App. 2003), *trans. denied*. The specific disposition of a delinquent child is within the juvenile court’s discretion. *K.S. v. State*, 849 N.E.2d 538, 544 (Ind. 2006). We reverse only for an abuse of discretion, that is, if the decision is clearly against the logic and effect of the facts and circumstances before the juvenile court, or the reasonable, probable, and actual deductions to be drawn therefrom. *Id.*

II. Sufficiency of the Evidence

[8] J.T. argues that the juvenile court abused its discretion in committing her to the DOC. The juvenile court’s discretion is “subject to the statutory considerations of the welfare of the child, the community’s safety, and the Indiana Code’s policy of favoring the least harsh disposition.” *C.T.S.*, 781 N.E.2d at 1202

(quotation omitted); *see* Ind. Code § 31-37-18-6. J.T. contends that remaining at Bashor would have been the least restrictive and most appropriate setting available. *See* Brief of Appellant at 8. However, although Indiana Code section 31-37-18-6(1)(A) requires the juvenile court to select the least restrictive placement in most circumstances, it also allows leeway for a more restrictive placement when appropriate. *See J.S. v. State*, 881 N.E.2d 26, 28-29 (Ind. Ct. App. 2008). That is, the least restrictive placement is only required if it is consistent with the “safety of the community and the best interest of the child[.]” Ind. Code § 31-37-18-6.

[9] Here, J.T. has an extensive history of juvenile delinquency having been adjudicated a delinquent five times and has been given multiple opportunities in less restrictive placements including home detention and residential treatment. Further, in J.T.’s latest placement in Bashor, she made minimal progress in her treatment and had twenty-three incident reports, refused twelve drug screens, continually left the facility, and was observed under the influence. *See* Am. Appellant’s App., Vol. 2 at 150-51. Therefore, given the facts and circumstances of this case, the juvenile court did not abuse its discretion by modifying its dispositional order and awarding wardship of J.T. 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 juvenile to DOC where juvenile had

been offered numerous means for rehabilitation but “has continued to reoffend and disrespect the rule of law and his fellow citizens”), *trans. denied*.

Conclusion

[10] We conclude the juvenile court did not abuse its discretion in modifying J.T.’s disposition and awarding wardship of J.T. to the DOC. Accordingly, we affirm.

[11] Affirmed.

Riley, J., and Molter, J., concur.