

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

K.A.,
Appellant-Respondent,

v.

State of Indiana,
Appellee-Petitioner

August 1, 2023

Court of Appeals Case No.
22A-JV-1873

Appeal from the Posey Circuit
Court

The Honorable Craig S. Goedde,
Judge

Trial Court Cause No.
65C01-2203-JD-22

Memorandum Decision by Judge Mathias
Judges Crone and Kenworthy concur.

Mathias, Judge.

[1] K.A. appeals his adjudication as a delinquent child and his placement with the Department of Correction. K.A. raises two issues for our review, which we restate as follows:

1. Whether the juvenile court abused its discretion when it denied K.A.'s motion to correct error.

2. Whether the juvenile court abused its discretion when it placed K.A. with the Department of Correction.

[2] We affirm.

Facts and Procedural History

[3] In December 2021, K.A., who was seventeen years old at the time, was in “a dating relationship” with a thirteen-year-old female. Tr. Vol. 2, p. 39. During that time, he fondled or touched her with the intent to arouse or satisfy either his or her sexual desires. Around that same time, K.A. also knowingly or intentionally possessed images of sexual conduct by a child less than eighteen years of age.

[4] In March 2022, the State filed an amended petition alleging, among other things, K.A. to be a delinquent child for acts that would be Level 4 felony child molesting and Level 6 felony possession of child pornography if committed by an adult. In May, K.A. entered into an agreement with the State in which he agreed to admit to those two delinquent acts. In exchange, the State agreed to dismiss other allegations against K.A. After advising K.A. of his rights, the court accepted his admissions, released K.A. to the care of his mother under

certain conditions, and set a dispositional hearing for June. Thereafter, K.A. had contact with one of his victims in violation of the conditions of his release, and the court ordered that K.A. be detained at the Youth Care Center in Evansville pending further order of the court.

[5] The court held K.A.'s dispositional hearing in June. At that hearing, an investigating detective testified that he had identified "a whole lot of pornographic images," including "bestiality pictures" and "nude younger females . . . clearly less tha[n] eighteen . . . years old," on K.A.'s cell phone. *Id.* at 51. The detective added that, while he had done numerous such photographic extractions in his career, the images on K.A.'s phone were "the most disturbing" he had seen. *Id.* The detective further testified that K.A. was the subject of "multiple" other investigations involving "younger girls" between ages eleven and fourteen. *Id.* at 48.

[6] K.A.'s mother, with whom K.A. lived,¹ refused to participate in the State's preparation of the predispositional report. However, she did state that she believed K.A.'s victims were to blame for her son's acts. Based on the nature and circumstances of K.A.'s acts, his quick failure to abide by the conditions of his release to his mother's care prior to the dispositional hearing, his mother's refusal to cooperate in the predispositional report, and his mother's victim blaming, the State recommended that K.A. be made a ward of the Department

¹ K.A.'s father is unknown.

of Correction. The court agreed and made K.A. a ward of the Department of Correction.

[7] On July 5, K.A. filed a motion to correct error. In that motion, K.A. noted that, following the dispositional hearing, the Indiana Supreme Court decided *State v. Neukam*, 189 N.E.3d 152 (Ind. 2022). In that opinion, our Supreme Court stated that, “[u]nder the governing statutes, a child’s delinquent act does not ripen into a crime when the child ages out of the juvenile system.” *Id.* at 152-53. Thus, the *Neukam* Court held that a criminal court had no jurisdiction over a twenty-two-year-old for alleged delinquent acts he had committed while he was a juvenile.² *Id.* at 153.

[8] In reaching that holding, our Supreme Court noted as follows:

We . . . recognize our decision today raises questions about circuit-court jurisdiction vis-à-vis the juvenile court’s waiver statutes and the criminal court’s transfer statute. For instance, the waiver statutes allow a juvenile court to waive its exercise of jurisdiction. *See, e.g., I.C. § 31-30-3-1*. The effect of this waiver is a criminal court may then exercise its own jurisdiction. But it cannot do so without jurisdiction over the alleged conduct in the first place. By the same token, the transfer statute—which permits a criminal court to transfer a criminal case to a juvenile court—presupposes the criminal court has jurisdiction. *See id. § 31-30-1-11* (beginning with the phrase “if a court having criminal jurisdiction”). The dissents would allow these statutes to control here. *Post*, at 160 n.3 (Goff, J., dissenting). But to do so, they

² In *D.P. v. State*, our Supreme Court held that juvenile courts lack jurisdiction to hear delinquency petitions once the accused is twenty-one years old. 151 N.E.3d 1210, 1213-14, 1216 (Ind. 2020).

bypass the import of the key phrase in the delinquent-act statute: “would be an offense if committed by an adult[.]” *And the delinquent-act statute . . . is dispositive here on its plain terms.*

Id. at 157 (emphasis added).

[9] Relying on that language in his motion to correct error, K.A. alleged that his admissions to the delinquent acts were “premised upon the State’s agreement not to file for [w]aiver of [his] case to Circuit Court.” Appellant’s App. Vol. 2, p. 73. Thus, K.A. sought to “withdraw his admission[s] and have his case proceed to factfinding as a juvenile matter.” *Id.* K.A. further asserted that his placement as a ward of the Department of Correction “is not the least restrictive and best option” for him. *Id.* at 74.

[10] The trial court denied K.A.’s motion to correct error without a hearing. This appeal ensued.

1. The trial court did not abuse its discretion when it denied K.A.’s motion to correct error.

[11] On appeal, K.A. first argues that the trial court abused its discretion when it denied his motion to correct error. We review the trial court’s denial of a motion to correct error for an abuse of discretion. *Bruder v. Seneca Mort. Servs., LLC*, 188 N.E.3d 469, 471 (Ind. 2022). An abuse of discretion occurs when the trial court’s decision is clearly against the logic and effect of the facts and circumstances before the court or if the court has misinterpreted the law. *Id.* We review questions of law de novo. *Id.*

[12] K.A.’s argument here appears to be that he was unduly influenced to admit to the two allegations by the possibility of being waived into criminal court, which possibility, according to K.A., *Neukam* foreclosed. But *Neukam* did not vitiate a juvenile court’s authority to waive its jurisdiction over a juvenile; rather, our Supreme Court was clear that it was *not* addressing that authority because it was not relevant based on the facts before the Court. *See* 189 N.E.3d at 157 (“the delinquent-act statute . . . is dispositive here on its plain terms”). Instead, the *Neukam* Court held that a *criminal* court has no jurisdiction over an *adult* defendant for alleged delinquent acts he had committed while he was a juvenile. *Id.* at 153.

[13] K.A. was at all times a juvenile in juvenile court. The holding in *Neukam* was simply inapposite to K.A.’s juvenile proceeding. Thus, K.A. cannot show that the trial court abused its discretion when it denied his motion to correct error.

2. The trial court did not abuse its discretion when it made K.A. a ward of the Department of Correction.

[14] K.A. also asserts that the trial court abused its discretion when it made him a ward of the Department of Correction. As we have explained:

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, to be guided by the following considerations: the safety of the community, the child’s best interests and freedom, the least restrictive alternative, family autonomy and life, and the freedom and opportunity for participation of the parent, guardian, or

custodian. *K.S. v. State*, 849 N.E.2d 538, 544 (Ind. 2006); *see also* Ind. Code § 31-37-18-6. We reverse only for an abuse of discretion, that is, a decision that 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. *K.S.*, 849 N.E.2d at 544.

K.S. v. State, 114 N.E.3d 849, 854 (Ind. Ct. App. 2018), *trans. denied*.

[15] According to K.A., the trial court’s placement decision was an abuse of the court’s discretion because he “has a loving home available in Posey County. [He] has therapy available to him in the Posey County Community. [And he] has no prior juvenile history[.]” Appellant’s Br. at 15. But K.A. disregards that his mother, with whom he lived, was unwilling to participate in K.A.’s predispositional report and blamed K.A.’s victims for K.A.’s conduct. K.A. likewise disregards the evidence before the juvenile court of the seriousness of the allegations to which he admitted, as well as the evidence before the court of “multiple” other investigations involving K.A. and “younger girls” between ages eleven and fourteen. Tr. Vol. 2, p. 48. And K.A. disregards his placement with his mother prior to his dispositional hearing, the conditions of which he promptly violated by communicating with one of his victims. Thus, based on the record before the juvenile court, we cannot say that the court abused its discretion when it made K.A. a ward of the Department of Correction.

Conclusion

[16] For all of these reasons, we affirm the juvenile court’s denial of K.A.’s motion to dismiss and its placement of K.A. with the Department of Correction.

[17] Affirmed.

Crone, J., and Kenworthy, J., concur.