

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

M.W.,

Appellant-Defendant,

v.

State of Indiana,

Appellee-Plaintiff.

October 30, 2023

Court of Appeals Case No.
23A-JV-888

Appeal from the Vanderburgh
Superior Court

The Honorable Renee A.
Ferguson, Magistrate

Trial Court Cause No.
82D04-2211-JD-1776

Memorandum Decision by Judge Bailey

Judges May and Felix concur.

Bailey, Judge.

Case Summary

- [1] M.W. appeals the juvenile court’s award of wardship over her to the Indiana Department of Correction (“DOC”). M.W. presents one issue for our review, namely, whether the juvenile court abused its discretion when it placed her in the DOC. We affirm.

Facts and Procedural History

- [2] On June 23, 2022, M.W. left home without her parents’ permission. Then, on June 27 and July 14, M.W. used her parents’ credit card information without their permission. On October 25, M.W. was detained in Ohio and transported to the Youth Care Center. At that time, M.W. reported that she had been a victim of human trafficking following a prior release from the DOC in September 2020. *See* Appellant’s App. Vol. 2 at 20. The State then filed a petition alleging that M.W. was a juvenile delinquent for having committed two counts of theft, as Class A misdemeanors if committed by an adult,¹ and that she had committed the act of leaving home without the permission of her parent or guardian.²
- [3] On November 18, the court held a hearing on the State’s petition. During the hearing, M.W. admitted to the allegations, and the court adjudicated her a

¹ Ind. Code § 35-43-4-2(a) (2022).

² I.C. § 31-37-2-2.

delinquent. The court then acknowledged that M.W. had been involved in “human trafficking” and that she had suffered “trauma.” Tr. at 8, 10. The court then indicated to M.W. that, because of that trauma, the DOC was “not going to serve any purpose” for her. *Id.* at 10. The court ordered that M.W. remain in secure detention until it could determine a placement.

[4] At a hearing on December 2,³ M.W. indicated to the court that she had been accepted by two facilities “for placement in their human trafficking program.” *Id.* at 13. The court then placed M.W. at Bashor, one of the facilities that had accepted her. On January 31, 2023, the court held a hearing to review M.W.’s placement. At the hearing, the court heard reports that M.W. was “not finding a whole lot of benefits from the program,” that she had been receiving “moldy food” and food “with mouse feces in it,” and that the placement had not been following the condition of her individual education plan. Tr. at 20. Based on those reports, the court modified M.W.’s placement to Tru Harbor, the other facility that had accepted her.

[5] On February 27, M.W. “absconded” from Tru Harbor. Tr. at 29. M.W. was found by FBI officers in Ohio and returned to Tru Harbor. However, M.W. left Tru Harbor a second time. M.W.’s probation officer filed a violation report and alleged that M.W. had violated the terms of her placement when she “escaped/absconded” from Tru Harbor. Appellant’s App. Vol. 2 at 49. The

³ Prior to the December 2 hearing, M.W. was adjudicated a Child in Need of Services.

court held a hearing on the allegation on March 24 during which M.W. admitted to having violated the rules of her probation. M.W. then requested that she be placed on home detention, but the court declined her request because she had “proven to be a flight risk” and because the court was worried that she was “a danger to” herself. Tr. at 27.

[6] The court then held a subsequent hearing. At that hearing, M.W.’s probation officer requested that she be placed in the DOC because “there’s no other facility in the State of Indiana that can take her” due to her “past aggression and her being a flight risk.” *Id.* at 29. Her probation officer also asserted that M.W. had been referred to the juvenile court “15 times with this being her fifth adjudication.” *Id.* at 29. And the probation officer argued that, in the past, M.W. had been “ordered to multiple residential placements”; received outpatient and in-home therapy; had a prior commitment to the DOC; received “probation services,” case management services, and medication management; and had previously been on “electronic house arrest.” *Id.* As such, the probation officer requested that she be committed to the DOC because the State had exhausted “all residential placements and services available.” *Id.*

[7] The court determined that “everything” it had tried with M.W. in the past “hasn’t worked.” *Id.* at 32. The court then noted that M.W. is a “flight risk” and that anytime she runs away from her placement, she runs “back to the people that victimize” her. *Id.* Accordingly, the court concluded that the only place it could put M.W. to ensure her safety was the DOC. This appeal ensued.

Discussion and Decision

- [8] M.W. contends that the juvenile court abused its discretion when it ordered her to be committed to the DOC rather than a less restrictive setting. As the Indiana Supreme Court has explained:

The specific disposition of a delinquent is within the juvenile court's discretion, to be guided by the following considerations: the safety of the community, the best interests of the child, the least restrictive alternative, family autonomy and life, freedom of the child, and the freedom and participation of the parent, guardian, or custodian. We reverse only for an abuse of discretion, namely 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. v. State, 849 N.E.2d 538, 544 (Ind. 2006) (citations and quotation marks omitted).

- [9] On appeal, M.W. contends that the court abused its discretion when it placed her under the wardship of the DOC because her life has been “traumatic[.]” Appellant's Br. at 13. In particular, M.W. asserts that her biological parents died when she was young, that her adoptive mother knew that she was being molested but “chose not to do anything to stop the abuse,” that she “bounced from placement to placement” for five years, and that she was “repeatedly trafficked sexually by grown men.” *Id.* at 14. She further contends that she had previously “excelled when she lived with a stable and supportive family and

had clear rules and expectations.” *Id.* at 15. Thus, she maintains that the court should have utilized less restrictive options than the DOC.

[10] However, while it is clear that M.W. has suffered trauma in her life, the court has given her numerous opportunities at less-restrictive placements, to no avail. Indeed, in the present case, M.W. left home without permission and used her parents’ credit cards without their permission. After she admitted to those violations, the court placed her in one of the two treatment facilities that were specifically designed to help victims of human trafficking. When that placement did not work, the court moved her to the other placement. However, shortly after she moved to Tru Harbor, she absconded on two occasions.

[11] Further, the instant offenses were not M.W.’s first contacts with the juvenile court. M.W. has been referred to the juvenile court fifteen times and has been adjudicated a delinquent five times. As a result of those prior contacts with the juvenile court, she has been placed in emergency foster care, on house arrest, in residential placement, at the Youth Care Center, at the DOC, and in treatment facilities. *See Appellant’s App. Vol. 2 at 62.* In addition, M.W. has received trauma therapy and case management services through the Indiana Department of Child Services. However, despite those prior efforts and attempts at alternative placement, M.W. continues to run away from almost every placement she is in, and she continues to commit delinquent activity.

[12] Based on that evidence, we agree with the court that “there does not exist any viable options for the care and treatment of [M.W.] in the community” and that it is “in the best interests of the child and the community that the child receive DOC services.” *Id.* at 68. As such, we conclude that the juvenile court was within its discretion to order that M.W. be committed to the DOC.

Conclusion

[13] The juvenile court did not abuse its discretion when it placed M.W. under the wardship of the DOC. We therefore affirm the trial court.

[14] Affirmed.

May, J., and Felix, J., concur.