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**IN THE
COURT OF APPEALS OF INDIANA**

B.P.,)
)
Appellant-Respondent,)
)
vs.) No. 49A05-1101-JV-33
)
STATE OF INDIANA,)
)
Appellee-Petitioner.)

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Gary Chavers, Judge Pro Tempore
The Honorable Geoffrey A. Gaither, Magistrate
Cause No. 49D09-1009-JD-2549

September 29, 2011

MEMORANDUM DECISION - NOT FOR PUBLICATION

NAJAM, Judge

STATEMENT OF THE CASE

B.P. appeals his adjudication as a delinquent child for having committed burglary, as a Class B felony if committed by an adult; theft, as a Class D felony if committed by an adult; and battery, as a Class B misdemeanor if committed by an adult. He presents a single issue for our review, namely, whether remand to the trial court is necessary to correct errors on the trial court's Chronological Case Summary ("CCS") and dispositional orders. The State agrees with B.P. that remand is necessary.

We remand with instructions.

FACTS AND PROCEDURAL HISTORY

On September 20, 2010, the State filed a petition alleging that B.P. was a delinquent child for committing the following four offenses that would be crimes if committed by an adult: Count 1, burglary, as a Class B felony; Count 2, robbery, as a Class C felony; Count 3, theft, as a Class D felony; and Count 4, battery, as a Class A misdemeanor. On November 30, at the conclusion of a factfinding hearing, the trial court stated the following:

Okay, the Court having heard the evidence, it's a matter of testimony presented as to Count 1 burglary, is a Class B felony, I'm going to enter a TRUE finding; as to Count 2 Robbery, is a Class C felony, I'm going to enter a NOT TRUE finding; as to theft, is a [Class] D [felony], I'm going to enter a TRUE finding and as to Count 4 battery, I'm going to enter a TRUE finding to a lesser included offense of Class B misdemeanor[.]

Transcript at 77. And the trial court's written order on that factfinding hearing reflects the same disposition of the counts.

However, on December 16, the trial court issued two separate dispositional orders which indicate the following true findings: burglary, "a Charge class B Felony;" robbery,

“a Charge class C Felony;” theft, “a Charge class D Felony;” battery, “a Charge class A Misdemeanor;” and battery, “a Charge class B Misdemeanor.” Appellant’s App. at 11. In addition, the CCS includes an entry on November 30 which states that B.P. was “Found True by Trial” on count 2 and another entry on December 16 showing the same errors in the true findings as the two dispositional orders issued the same date. This appeal ensued.

DISCUSSION AND DECISION

B.P. contends, and the State agrees, that remand is necessary to correct the errors contained in the trial court’s CCS and dispositional orders. On November 30, 2010, the trial court unambiguously entered a not true finding on count 2 and entered a true finding “to a lesser included offense of [a] Class B Misdemeanor” on count 4. Transcript at 77. Also on that date, the trial court issued its “Order on Fact Finding Hearing,” in writing, reiterating the same disposition of the counts against B.P. There is no explanation for the errors that occurred in the subsequent dispositional orders and CCS. But it is “elementary that the trial court be bound by its judgment” of November 30. See Stott v. State, 822 N.E.2d 176, 178 (Ind. Ct. App. 2005). Accordingly, we remand to the trial court with instructions that it correct the dispositional orders of December 15, 2010, and the CCS entries made on November 30 and December 15, 2010, to reflect B.P.’s adjudication as follows: Count 1, burglary, as a Class B felony, TRUE; Count 2, robbery, as a Class C felony, NOT TRUE; Count 3, theft, as a Class D felony, TRUE; and Count 4, battery, as a Class B misdemeanor, TRUE.

Remanded with instructions.

RILEY, J., and MAY, J., concur.